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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/587,218
Filing Date: July 25, 2006
Appellant(s): SCHURG ET AL.

Mark Bicks
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 9/23/10 appealing from the Office action
mailed 3/17/10.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal.

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

6,092,705	Meritt	7-2000
6,450,571	Canni	9-2002
3,615,118	Buxton	10-1971
5,375,907	Rogers	12-1994
5,507,556	Dixon	4-1996

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Meritt (6092705). Meritt disclose an passenger seat (not labeled, figure 5), comprising a seat part; a backrest extending from said seat part and having a front surface facing said seat part, a support structure (1) and backrest cushioning bearing on said support structure; a tray table (the inside of 8 is a table) coupled to said support structure and foldable between a stored position on a back of said support structure and a use position away from said back of said support structure; and a pocket receptacle (bottom portion of 1, figure 1) on said back of said support structure for holding utensils, printed

materials and travel accessories, said receptacle being a cavity (the open space in 1 is the cavity) overlapping extending at least partially said tray table in the stored position in a direction perpendicular to said front surface of and said backrest and having a main opening (the bottom portion of the open space 1) for introducing objects into said cavity, said main opening being open and exposed when said tray table is in the stored position, said tray table remaining outside said cavity in the stored position.

3. Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Rogers (5375907). Rogers disclose a seat, comprising a seat part (21); a backrest (22) extending from the seat part and having a front surface facing said seat part, a support structure and backrest cushioning bearing on said support structure; a tray table (30; specifically 34) coupled to said support structure and foldable between a stored position on a back of said support structure and a use position away from said back of said support structure; and a pocket receptacle (the inside portion of 34 forms a pocket, figure 2) on said back of said support structure for holding utensils, printed materials and travel accessories, said receptacle being a cavity (the space in element 32, see figures 2-3) overlapping extending at least partially said tray table in the stored position in a direction perpendicular to said front surface of and said backrest and having a main opening (the space 29 see figure 3) for introducing objects into said cavity, said main opening being open and exposed when said tray table is in the stored position, said tray table remaining outside said cavity in the stored position.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9-12, 14-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Canni (6,450,571) in view of Buxton (3,615,118). Canni discloses the use of an passenger seat (10), comprising a seat part (figures 1-2) and a backrest (12) extending from said seat part and having a support structure and backrest cushioning (42) bearing on said support structure; and a pocket receptacle (16) on said back of said support structure for holding utensils (14, figure 5), printed materials and travel accessories; a main opening (located inside of 16) for introducing objects into said cavity, said main opening being.

6. In regards to claim 10, the backrest (12) is extendable in an upright position (figures 1-2) having a main direction oriented in a vertical direction; said cavity (18) extends from an area adjacent a top edge of said support structure to a structure element forming a bottom (figures 3-4) of the receptacle; the top edge of the support structure and the bottom of the receptacle are defined relative to said vertical direction, see figures 1-4.

7. In regards to claim 11, the main opening is adjacent said top edge of said support structure and opens in a back direction away from said backrest cushioning (42).

8. In regards to claim 12, a plate (the back portion of 12 is a plate) extends between two side edges of said support structure and in the vertical direction, above said structure element, and forms a rear wall of said receptacle.

9. In regards to claim 15, an elongated bottom (the bottom portion of 16 is an elongated bottom) opening extends between said structure element and said plate.

10. In regards to claim 18, the backrest (12) comprises a backrest supporting face for supporting a user's back; said backrest has at least an upright position in which said backrest has a main direction oriented vertical direction; a wall piece spaced in direction perpendicular to the backrest supporting face; from a rear wall (a portion of the backrest 12) of said support structure bearing said backrest cushioning (42) to form a hollow space forming said cavity.

11. In regards to claim 20, the backrest has at least an upright position in which said backrest has a main direction oriented in a vertical direction.

12. In regards to claim 29, said backrest (51,61) has at least an upright position (figure 1) in which said backrest has a main direction oriented in a vertical direction; said backrest has an upper half and a lower half relative to the vertical direction; and said main opening (located inside 16) is placed in said upper half.

13. In regards to claim 31, said backrest (12) has at least an upright position in which said backrest has a main direction oriented in a vertical direction; and relative to the vertical direction.

14. In regards to claim 33, said backrest comprises a backrest supporting face (located on the back cushion) for supporting a user's back; and said receptacle (14) is, relative to a direction perpendicular to the backrest supporting face.

15. In regards to claim 34, said cavity is formed by at least four wall parts (top, bottom, sides of the backrest portion) that adjoin each other.

16. In regards to claim 35, said main opening of said cavity is formed by said top edge of said wall piece.

17. In regards to claim 37, a seat part; a backrest (51,61) extending from said seat part and having a support structure (back portion of the seat back) and backrest cushioning (62,52) bearing on said support structure, said backrest including a backrest supporting face for supporting a user's back and having at least an upright position in which said backrest has a main direction oriented in a vertical direction; a pocket receptacle (16) on said back of said support structure for holding utensils (located inside 14), printed materials and travel accessories, said receptacle being a cavity (located in 16) extending in said support structure at least partially in the stored position and said backrest cushioning (42) and having a main opening for introducing objects into said cavity, said main opening being open and exposed when in the stored position, (figure 2); a wall piece spaced in a direction perpendicular to said backrest supporting face from a rear wall of said support structure to form a hollow space (located) forming said

cavity, said wall piece and said rear wall being distinct from the tray table, relative to the vertical direction, a top edge below a top edge of said wall piece, said main opening of said cavity being formed by said top edge of said wall piece.

18. In regards to claim 39, cavity (the opening section of 16) extends in the support horizontally in the stored position.

19. In regards to claim 40, receptacle (14) is horizontally between the plate and the rear surface of the backrest.

20. In regards to claim 41, receptacle extends in the support structure horizontally in the stored position.

21. Canni fails to show a tray table coupled to said support structure and foldable between a stored position on a back of said support structure and a use position away from said back of said support structure; a cavity overlapping at least partially, the tray table in the stored position in direction perpendicular to the front surface of the backrest; tray table remaining outside the cavity in the stored position; plate supports a latch for fixing said tray table in the stored position, the latch being supported on the plate in the stored and use position of the tray table; a lip on an edge thereof bordering said bottom opening and projecting into an inside width of said bottom opening; main opening allows removal of items stored in said cavity in a direction parallel to said face in the stored position of said tray table; a latch for fixing the tray table in the stored position is mounted on a rear side of said wall piece, latch is adjacent said top edge; a tray table mounted on said rear surface for movement between a stored position overlying a rear; tray table is pivotally coupled to said support structure; tray table is distinct from said

support structure; plate is fixedly connected to said support structure; a wall piece and rear wall being from the tray table, the tray table abutting on the wall piece in the stored position; said tray table in the stored position has relative to the vertical direction; top edge below a top edge of said wall piece.

22. Buxton teaches a tray table (72) coupled to said support structure and foldable between a stored position (figure 1) on a back of said support structure and a use position (figure 2) away from said back of said support structure; tray table remaining outside the cavity in the stored position, (figure 2 shows the tray table in the stored position and the main opening being open); plate supports a latch (74) for fixing said tray table in the stored position, the latch being supported on the plate in the stored and use position of the tray table, see figure 2); a lip (57) on an edge thereof bordering said bottom opening and projecting into an inside width of said bottom opening. main opening allows removal of items stored in said cavity in a direction parallel to said face in the stored position of said tray table; a latch (74) for fixing (securing) the tray table in the stored position is mounted on a rear side of said wall piece, latch is adjacent said top edge (see figure 2); a tray table (72) mounted on said rear surface for movement between a stored position overlying a rear; tray table (72) is pivotally coupled to said support structure, figure 2; tray table is distinct from said support structure; plate is fixedly connected to said support structure (since the plate is part of the support structure); a wall piece and rear wall being from the tray table, the tray table abutting on the wall piece in the stored position; said tray table in the stored position has relative to the vertical direction; top edge below a top edge of said wall piece.

23. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the seat of Canni with a tray table assembly as taught by Buxton, in order to allow the a passenger to have a tray to use as a table and at the same time to be able to access items in the pocket when the table is in the stored or use position.

24. Furthermore, when the tray table is attached to Canni backrest, the cavity will overlap at least partially when the tray table in the stored position in direction perpendicular to the front surface of the backrest.

25. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Canni and Buxton further in view of Dixon (5,507,556). The combination of Canni and Buxton fails to show the use of the support structure receives a display screen integrated therein.

26. Dixon teaches the use of a support structure receives a display screen (20).

27. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the support structure with a display screen as taught by Dixon, in order to provide information and entertainment for the occupant.

(10) Response to Argument

The appellant argues that Merritt does not show a tray table. The examiner maintains that the flap 8 is a tray table. When the occupant releases the straps 9 and 10 (see Figure 1), the cover 8 can be placed on the knees of the occupant to use as a table. Therefore, the flap 8 is fully functionally as a tray table, and can reasonably be considered a "tray table".

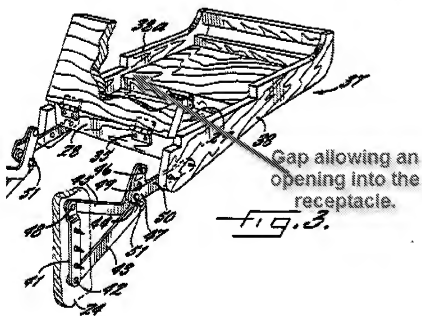
Appellant also argues that Merritt does not show the tray table coupled to a support structure of a backrest. As noted by appellant in the first line of page 7 on the appeal brief, the tray table "is releasably coupled to the seat". Therefore, the tray table is coupled to the seat, nothing in the claim language requires it to be non-releasably attached. Furthermore, see Figure 5 wherein the tray table is coupled to the backrests via straps 27.

Also on page 7, appellant argues that Merritt does not show a pocket receptacle as it "cannot take up any utensils... with the device 3 in the shown position." On the one hand, the device 3 can clearly be considered a "travel accessory". On the other hand, the receptacle does not necessarily have to hold only the device 3, other items such as utensils could be placed in the receptacle. Finally, it is noted that the claim language in question "for holding utensils..." is functional, and the examiner submits that the receptacle could clearly hold any of this matter, especially a utensil such as a knife, or a printed material, such as a piece of paper (note the size of the compartment in Figure 1 and the overall size of the device in Figure 5 compared to the seats).

On page 8, appellant argues that the Rogers reference table is mounted on the front of the seat back support structure and not the back of the seat. The examiner respectfully disagrees. As shown in Figures 1, 2, and 4 of Rogers, element 36 forms a backrest, and the tray table is shown on the back of the backrest support structure. As shown in Figure 4, the tray table (for example, 34) is on the back of the support

structure of the backrest. While the overall sofa may have different backrest portions, the tray table is in fact on the back of the center portion of the backrest.

The appellant also argues that the Rogers the recess portion and tray table is not accessible when in the stored position. In response, the examiner notes that as shown in figure 2, the main opening is accessible when the table is in the stored position. Furthermore, as shown in Figure 3, the face 32 is slightly lower than the edge walls of the recess, thereby allowing room to insert a "printed material" into the pocket receptacle. See annotated Figure 3 of Rogers below:



On page 10, Appellant argues that Canni does not disclose a "support structure". Appellant admits that there is an indication of a support structure in the Figures being the pair of brackets. These alone would suffice as the "support structure". In addition, the examiner submits that in such a vehicle seat, a "support structure" inside the seat back is inherent; a vehicle seat is not made of cushioning alone.

Appellant also argues that the Canni patent does not disclose a pocket receptacle for holding utensils, printed materials and travel accessories. Applicant admits that the receptacle can receive a container, and the container can hold utensils, printed material, and travel accessories. This would appear to be sufficient to read on the claim language. The claim does not require that the receptacle only hold such items when not in a container. Furthermore, if such items could be held in the receptacle in the container, there is no reason why the receptacle could not hold them without using a container. Appellant goes on to argue that if so, such items would be cumbersome to retrieve by hand. However, such arguments are not germane to the scope of the claim. The claim only requires that the items be held by the receptacle; how the items are removed from the pocket is irrelevant.

Appellant argues that the combination of Canni and Buxton would not be obvious to one of ordinary skill in the art. The examiner submits that it is old and well known to provide tray tables on the backside of seats as evidenced by Buxton (see Figure 2). The examiner maintains that it would have been obvious to place such a tray table as taught by Buxton onto the seat back of Canni in order to allow the passenger behind the

seat to have a table to work or eat from. In such a combination, due to the depth of the pocket of Canni, the tray table would necessarily overlap the pocket.

Regarding claim 10, appellant argues the position of the locker 72 above the tray table in Buxton. In response it is noted that the locker is not relied upon in the rejection. The combination merely requires adding the tray table of Buxton to the seat of Canni. As such, the examiner maintains that the cavity would be located "within a surface area of said tray table."

On page 14, appellant argues the rejection of claim 13 which includes the patent to Dixon. Appellant argues that such a combination would cause a weakening of the seat rigidity. In response, while a certain amount of weakening of the seat may occur by adding a display screen, the examiner maintains that adding a display screen to the seat back as taught by Dixon would have been obvious to one of ordinary skill in the art. Even if not added to the seat back, it would have been obvious to add the display screen in the headrest of Canni as is old and well known in the art.

Appellant also argues claim 22 on pages 18-21, however, these arguments mirror the arguments to claim 9. In response to these arguments, the examiner relies on the response above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/E. G./

Examiner, Art Unit 3636

/DAVID DUNN/

Supervisory Patent Examiner, Art Unit 3636

Conferees: David Dunn /DD/

Dave Okonsky /DAO/